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A Study on Legal Aspects relating to the Euthanasia

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Abstract

In our general public, the palliative consideration and personal satisfaction issues in patients with terminal sicknesses like progressed disease and AIDS have turned into a significant worry for clinicians. Corresponding to this worry has emerged another disputable issue-euthanasia or "kindness - killing" of in critical condition patients. Advocates of doctor helped self destruction (PAS) feel that a singular's on the right track to independence naturally qualifies him for pick an easy demise. The rivals feel that a doctor's part in the demise of an individual abuses the focal fundamental of the clinical calling. For, undiscovered gloom and plausibility of social 'intimidation' in individuals requesting euthanasia set a further question mark on the moral standards hidden such a demonstration. These worries have prompted severe rules for carrying out PAS. Appraisal of the psychological condition of the individual consenting to PAS becomes required and here, the job of the therapist becomes vital. Albeit considered unlawful in our country, PAS has a few promoters as intentional associations like "demise with respect" establishment. This has a fillip in the new Honorable Supreme Court Judgment in the Aruna Shaunbag case. What is not yet clear is the way long it takes before this touchy issue shakes the Indian council.

Keywords: Euthanasia , legal aspects , Euthanasia and Pas, Euthanasia In India, Legalization

Introduction

Each individual cravings to carry on with his life to the full degree, and for quite a while. In any case, there are sure conditions, where a similar individual longings to take his life. The closure of the existence of an individual without anyone else may emerge out of two different ways; either self destruction, or by euthanasia. While the previous is altogether unlawful in India, the last option is a begging to be proven wrong theme.



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Euthanasia, as indicated by Merriam-Webster word reference, implies the demonstration or practice of killing or allowing the demise of miserably wiped out or harmed people in a somewhat easy manner because of reasons of benevolence. It can likewise be viewed as 'leniency killing'. As per this training, the person in question, or some other individual for his benefit, picks demise for himself, mostly due to ailments of the person in question and afterward he is killed by another person. This is done just to tolerantly end the existence of the casualty to let him out of the serious infection, heinous anguish and from the wretchedness and agony of life.

• Definition of Euthanasia and Pas

The English logician Sir Francis Bacon instituted the adage "euthanasia" right off the bat in the seventeenth century. Euthanasia is gotten from the Greek word eu, signifying "great" and thanatos signifying "passing," and right off the bat implied a "great" or "simple" death.Euthanasia is characterized as the organization of a deadly specialist by someone else to a patient to assuage the patient's unbearable and serious affliction. Normally, the doctor's intention is tolerant and expected to end languishing. Euthanasia is performed by doctors and has been additionally characterized as "dynamic" or "latent." Active euthanasia alludes to a doctor intentionally acting in a manner to take a patient's life. Inactive euthanasia relates to keeping or pulling out treatment important to keep up with life. There are three kinds of dynamic euthanasia. Deliberate euthanasia is one type of dynamic euthanasia which is performed in line with the patient. Compulsory euthanasia, otherwise called "kindness killing," includes ending the existence of a not mentioned patient for it, with the purpose of alleviating his aggravation and languishing. In nonvoluntary euthanasia, the cycle is done despite the fact that the patient isn't in a situation to give assent.

PAS, then again, includes a doctor giving drugs or exhortation to empower the patient to end their own life. While hypothetical or potentially moral qualifications among euthanasia and PAS might be inconspicuous to some, the viable differentiations might be huge. Numerous at death's door patients approach possibly deadly meds, now and again even upon demand from their doctors, yet don't utilize these prescriptions to take their own lives.

Both euthanasia and PAS have been recognized, legitimately and morally, from the organization of high-portion torment drug intended to calm a patient's aggravation that might hurry passing (regularly alluded to as the standard of twofold impact) or even the withdrawal of life support. The qualification between euthanasia/PAS and the organization of high-portion torment meds that might rush demise is commenced on the goal behind the demonstration. In euthanasia/PAS, the purpose is to take the patient's life, while in the organization of agony drugs that may likewise hurry demise; the expectation is to ease languishing.



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Qualifications between withdrawal of life backing and euthanasia/PAS are, in numerous ways, impressively more clear. Long-standing common case law has upheld the freedoms of patients to reject any undesirable treatment, despite the fact that such treatment refusals might cause demise. Then again, patients have not had the opposite right to request medicines or intercessions that they want. This differentiation has permitted a patient in a coma the capacity to end their life on demand, yet a patient who isn't reliant upon life support doesn't have such a right.

• Classification of Euthanasia

Euthanasia can be classified into:

i. Active euthanasia

In active euthanasia, the demise of the casualty is caused when the clinical experts, or some other individual, intentionally do some certain demonstration, for example, infusing a portion of a deadly medication, or ingesting too much the casualty with some medication, which would some way or another not bring about death, notwithstanding the excess; bringing about the passing of the individual.

ii. Passive euthanasia

In passive euthanasia, the demise of the casualty is caused on the grounds that the treatment fundamental for supporting his life is either held off, or isn't given. For this situation, the clinical experts either don't something important to keep the patient alive, or they quit giving the treatment needed to keep him alive; like turning off the existence emotionally supportive network, disengaging the taking care of cylinder, not doing life-broadening activities, and other comparative demonstrations. In "passive euthanasia" the specialists are not actively killing anybody; they are basically not saving him.

iii. Voluntary

If there should arise an occurrence of voluntary euthanasia, the communicated assent and want of the patient is available. It is essentially worried about the right to decision of the patient, experiencing serious illness who chooses to take his life.

iv. Non-Voluntary

Non-voluntary euthanasia happens when an individual's life is finished, who is intellectually inept to settle on any such choices of his life, or a solicitation to pass on, for example, a patient



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experiencing torpid. In such cases, the patient doesn't leave any living will, or give any development mandates, fundamentally on the grounds that he either probably won't have had the open door, or he probably won't have expected any such mishap or possibility.

In instances of non-voluntary euthanasia, the choice is regularly made by the relatives.

• Legal History Of Concept Of Euthanasia In India

The Supreme Court of India shows talked about the subject of kindness killing on numerous events. With an adjustment of the requirements of society, the Supreme Court has communicated its view on the subject at the very beginning

In the Supreme Court instance of Gian Kaur v. Province of Punjab, a five-judge seat held that right to life under Article 21 does exclude the negative right to kick the bucket. Subsequently, the Supreme Court maintained the protected legitimacy of Section 309 of the Indian Penal Code. The case overruled the prior choice of the division seat of the Supreme Court in P. Rathinam v. Association of India. The five-judge seat recused itself from offering a viewpoint on doctor helped self destruction or euthanasia and believed that the attractiveness of achieving the equivalent was the capacity of the governing body by bringing the necessary regulation.

On account of Aruna Ramchandra Shanbaug v. Association of India, the inquiry preceded the Supreme Court about passive euthanasia of one Ms. Aruna Ramchandra Shaunbaugh who was in Persistent Vegetative State (PVS) and her cerebrum was for all intents and purposes dead throughout the previous 30 years. It was battled that she ought to be allowed to bite the dust calmly. It was perceived that the patient was presently not a living individual and her life was without any human component. The Supreme Court guided a group of three specialists to present a report to them subsequent to surveying the psychological and states of being of the patient. Likewise, passive euthanasia was allowed without precedent for the historical backdrop of India.

The Supreme Court likewise set out the rules for the award of consent for passive euthanasia. An application under must be recorded with the Chief Justice of the High Court. The High Court



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will establish a seat of somewhere around two appointed authorities to choose the application. Prior to concluding something very similar, the seat should look for the assessment of an advisory group of three rumored specialists. Ideally, one of the three specialists ought to be a nervous system specialist, one ought to be a therapist and the third ought to be a doctor. The report of the specialists will consider bury alia the accompanying variables

- 1. Examination of the patient
- 2. Records of the patient
- 3. View of the emergency clinic staff'

The High Court will likewise give notice to the State and the direct relations of the patient and in their nonappearance, his/her next companion. The choice of the Supreme Court depended on the precept of parens patriae, i.e., father of the country. It thought that if there should be an occurrence of a clumsy individual who can't settle on a choice whether or not to pull out life support, it is the court alone, as patriae, which at last should settle on the choice considering the perspectives on the close to family members, next companions and specialists.

• Legal aspects of euthanasia in India

Indian courts perceive just passive euthanasia. In a new instance of Common Cause (a regd. Society), it was held that the 'right to bite the dust with nobility' is a key right of an individual. It very well may be profited by the patients who experience the ill effects of serious, and delayed infections, and have arrived at the condition of long-lasting vegetative state (p. v. s.), where there is very little or no desire for recuperation, and the patients are kept alive through outside instruments and machines, like the cardiopulmonary machines. In such cases, passive euthanasia can be permitted.

Prior, this was not the circumstance, when, even passive euthanasia was not legitimate in India. The specialists, who caused euthanasia, went under the domain of Exception 5 of Section 300 of the Indian Penal Code, since they had the essential 'aim' of causing passing of the concerned patient; in instances of voluntary euthanasia, since there was a substantial assent, the said specialist, or such individual causing euthanasia, would be responsible to discipline for blamable manslaughter not adding up to kill, under Section 304 of the Penal Code.

In any case, this stand is just in the instances of voluntary euthanasia, where the patient gives his agree to the causing of his passing, and the individual is over the age of 18 years, while giving the assent. The instances of non-voluntary and involuntary euthanasia were not covered under this, since they would be hit by the principal stipulation of Section 92 of the Penal Code. Active euthanasia is a wrongdoing in India.



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One of the significant places, brought up in the blessing of authorizing euthanasia in India, laid under the watchful eye of the Supreme Court, on account of Gian Kaur v. Province of Punjab, was that the 'right to life' gave under the Indian Constitution incorporates the 'right to pass on' also. Nonetheless, this dispute was dismissed, and the SC held that the 'right to life' under Article 21 does exclude the 'right to kick the bucket'. Also in no way, shape or form would it be able to be extended to mean something similar. Thus, the Apex Court of the land doesn't hold the illicitness of euthanasia to be naturally invalid.

It was held in Aruna Ramchandra Shanbaug v. Association of india that for an awkward individual, who can't accept choices concerning whether or not to pull out life support, as parens patrie, it is the Court alone, which can at last take this choice on account of a clumsy individual who can't take a choice whether or not to pull out life support, however, most likely, the perspectives on the close to family members, next companion and specialists should be given due weight. Subsequently, for this situation, the Apex Court held that, however active euthanasia is totally unlawful, passive euthanasia, to a degree, keeping the rules set down for the situation, legitimized.

The Law Commission has additionally suggested the authorization of euthanasia, in its 241st Report.

In Common Cause (A Regd. Society) versus Association of India (UOI) and Ors, a main case on euthanasia, passive euthanasia was sanctioned, and it was held, by the Supreme Court, that the 'right to kick the bucket with respect' is a basic right. Clinical treatment can be denied, or ruled against taking something similar, by a normal grown-up human of cognizant brain. He might choose to kick the bucket a characteristic demise, rather than profiting the medicines.

The court has perceived 'passive euthanasia', in which the specialist doesn't cause the demise of the individual, he just doesn't save him, by halting the continuous treatment, or by handicapping the life-support machines, through the help of which, the patient is alive. 'Active euthanasia', which happens because of regulating and infusing a portion of deadly medication; of excess of such a medication or medication, which in any case would not be deadly, however for the expansion measurements, in the body of the person in question, has been perceived in the Indian Courts, at this point.

The courts are of the view that an individual, or here, a specialist can't be rebuffed for not saving a patient. Notwithstanding, since an 'act' not just remembers a positive represent the piece of the guilty party, however it additionally incorporates every one of the 'exclusions' of the lawful obligation which one will undoubtedly satisfy. In this manner, an individual ought to be rebuffed for some clear demonstration, yet additionally for the exclusion of a legitimate compelled by a sense of honor by law on him to satisfy.

• Probable Consequences of legalization of euthanasia in India

However, there are numerous conclusions in the blessing of sanctioning euthanasia, for example, that it might diminish a weak patient from delayed wretchedness and enduring; there are likewise



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a few contentions against the authorization of euthanasia in India. Furthermore, as I would like to think, as well, euthanasia, be it active or passive, voluntary or non-voluntary, ought not be made a legitimate arrangement in India.

Assuming euthanasia is legitimized in India, it tends to be vigorously abused, by the segment of Indian culture, which appreciates wickedness. A portion of the likely results are as per the following.

Defilement is extremely wild in India. Indeed, even after various laws and guidelines, it actually drifts over India. It is very simple to pay off the clinic staff of an evil clinic, where a few deceitful specialists might warmly greet the unfeeling family members, in the help of the uncouth activity of causing passing of such a patient who, in fact, may not qualify the basis of being tolerantly 'killed', by planning bogus materialistic reports in compatibility of the equivalent. This normally happens in such clinics, where there is no worth of human existence, however the main concern is of the financial valuation that they will get for such indecent demonstrations.

Organ selling is as well, is certainly not an obscure idea in India. This also can be a progressive demonstration, after unfairly causing passing by non-voluntary euthanasia, since the insatiate specialists might be fretfully trusting that the drawn out tolerant will bite the dust, and they get their hands at bringing in a few cash by such unlawful demonstrations.

Commonly, a few youngsters are brought into the world with specific handicaps and distortions. The guardians of such kids, who don't wish to care for them, now and again by reason of some offbeat conviction, may take up this supplication of euthanasia to end the existence of the guiltless kid, which bring about a joke of the arrangement presented for others conscious reasons.

Essentially, where individuals are dazed by a few deceptions of a few tantrik babas, they may, in the wake of causing a few mishap of the person in question, take the authorization of finishing the existence of the casualty without his assent, as non-voluntary euthanasia; to offer him as an eccentric penance.

Once more, there are till date, many biased individuals, who hate the introduction of a female kid, trusting her to be a weight, or even on occasion, a revile. By causing some arranged, significant mishap or incident, which might lead her to the condition of extremely durable vegetative state, either at the beginning phase of her life, or at a later stage, cause her demise, by non-voluntary euthanasia, again by warmly greeting those clinic staffs who invalidate their clinical vow.



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There are numerous terrible wrongdoings in India, one of them being 'share demise', where once more, the arrangement of euthanasia can be abuse. Some reparable and not at death's door individual can be executed, by the choice of non-voluntary euthanasia, taken by the brutal relatives of the person in question, as them being the ones skillful to take choice, as relatives in the interest of the person in question.

In case of some wickedness being finished by the family members of the person in question, to acquire some property, and they would likewise dispose of an evil relative, finishing the costs brought about on his medicines, abuse of the arrangement of euthanasia may again be caused.

India is a country, which gives a lot of significance to its way of life and custom, and Indians follow their practices, be it social or strict, devoutly. Since euthanasia isn't perceived in a large portion of the religions followed here, taking into account that life and demise is in the possession of God, and people can't meddle in it; presenting an arrangement which would hurt the strict opinions of most of religions, obviously may not be an extremely engaging thought.

• THE INDIAN REALITY

It tends to be contended that in a nation where the essential common liberties of people are regularly left ignored, lack of education is wild, the greater part the populace isn't approaching consumable water, individuals bite the dust consistently because of contaminations, and where clinical help and care is less, for the couple of individuals, issues connected with euthanasia and PAS are immaterial. Notwithstanding, India is a nation of varieties across strict gatherings, instructive status, and societies. In this foundation, the discussion on euthanasia in India is more befuddling as there is additionally a law in this land that rebuffs people who even attempt to end it all.

The Medical Council of India, in a gathering of its morals board in February 2008 according to euthanasia believed: Practicing euthanasia will establish untrustworthy direct. Nonetheless, on explicit events, the subject of pulling out supporting gadgets to support cardiopulmonary capacity even after cerebrum demise will be chosen exclusively by a group of specialists and not simply by the treating doctor alone. A group of specialists will announce withdrawal of emotionally supportive network. Such group will comprise of the specialist responsible for the patient, Chief Medical Officer/Medical Officer accountable for the clinic, and a specialist designated by the responsible for the medical clinic from the clinic staff or as per the arrangements of the Transplantation of Human Organ Act, 1994.[48] In India, euthanasia is a wrongdoing. Area 309 of the Indian Penal Code (IPC) manages the endeavor to end it all and Section 306 of the IPC manages abetment of self destruction - the two activities are culpable. Just the people who are mind dead can be taken off life support with the assistance of relatives.



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In like manner, the Honorable Supreme Court is likewise of the view that that the right to life ensured by Article 21 of the constitution does exclude the option to kick the bucket. The court held that Article 21 is an arrangement ensuring security of life and individual freedom and by no inspire bigger thoughts would termination of life be able to be added something extra to it. Notwithstanding, different supportive of euthanasia associations, the most unmistakable among them being the Death with Dignity Foundation, continue to battle for legitimization of a singular's more right than wrong to pick his own demise.

A significant advancement occurred in this field on 7 March 2011. The Supreme Court, in a milestone judgment, permitted passive euthanasia. Declining benevolence killing of Aruna Shaunbag, lying in a vegetative state in a Mumbai Hospital for a considerable length of time, a two-judge seat set out a bunch of extreme rules under which passive euthanasia can be authorized through a high-court observed system. The court additionally expressed that guardians, life partners, or direct relations of the patient can make such a request to the high court. The central judges of the great courts, on receipt of such a supplication, would comprise a seat to choose it. The seat thusly would choose a council of something like three prestigious specialists to exhort them on the matter.

• Euthanasia In Other Countries

United Kingdom

By and by, euthanasia is unlawful in the United Kingdom. Be that as it may, the mission bunch called 'Poise in Dying' has been actively requesting the sanctioning of euthanasia in United Kingdom. The proposition has been restricted to the helped killing of individuals who are in critical condition and are skilled grown-ups with the assistance of specialists and a high court judge. The Suicide Act, 1961 announces the demonstration of Abetment to self destruction as an offense.

United States Of America

The overall set of laws of USA depends on a government structure. Along these lines, each State is qualified for make its own law. Appropriately, euthanasia has been proclaimed lawful in specific States like Oregon, Columbia, Colorado, Hawaii, New Jersey and Maine.



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Canada

Euthanasia was unlawful in all structures in Canada till 2015. In February 2015, on account of Carter v. Canada (AG)the Supreme Court of Canada legitimized helped biting the dust and guided the Canadian Parliament to change the law in accordance with the Supreme Court Judgment.

Australia

Western Australia and the State of Victoria have made helped passing on for the in critical condition individuals in December 2019 and June 2019 separately.

Switzerland

Euthanasia is unlawful in Switzerland. Yet, not at all like India, Article 115 of the Swiss Penal Code ensures individuals who help somebody ends it all, on the off chance that they act with noteworthy intentions.

Conclusion

While certain nations on the planet have as of now perceived and authorized the arrangement of euthanasia, the sanctioning of the equivalent may not be an exceptionally engaging thought. The courts in India, have, likewise, consumed a large chunk of the day, from the instances of Gian Kaur, Aruna Shanbaug, to the instance of Common reason (a regd. Society), in perceiving and sanctioning the euthanasia, and have authorized passive, voluntary euthanasia. The Apex Court is the most noteworthy court of judicature, and the choices given it must be regarded and recognized by every one of the residents of the country, since the seat concluding the cases is exceptionally capable and shrewd. Hence, this choice of legitimizing passive voluntary euthanasia is valued, attributable to the new improvements on the law of euthanasia in certain nations. Active euthanasia has not been sanctioned at this point, and ideally won't be done in the future also. Euthanasia will be to a greater degree a wickedness as opposed to a help for individuals for whom the sanctioning has been finished.



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